



## **CITY OF LODI COUNCIL COMMUNICATION**

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**AGENDA TITLE:** Adopt resolution authorizing the City Manager to approve three-year contract with ATT for T3 Internet service (\$33,048 per year) (ISD)

**MEETING DATE:** September 5, 2007

**PREPARED BY:** Deputy City Manager

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**RECOMMENDED ACTION:** Adopt resolution authorizing the City Manager to approve three-year contract with ATT for T3 Internet services (\$33,048 per year).

**BACKGROUND INFORMATION:** Over the years the City has become widely dependent upon the Internet for routine communications and day-to-day business activities. The Internet is the electronic backbone for email, file transfers, document sharing, City-sponsored file-transfer-protocol (FTP) sites, research, and City Council Webcasts.

For the past 10 years the City has used a 1.5 megabit-per-second T1 Internet connection. A T1 line is a type of broadband telecommunications connection used especially to connect Internet service providers to the Internet's infrastructure. Most home Digital Subscriber Line (DSL) connections are "faster" than the City's T1 line. Speed is determined by bandwidth, or the capacity to transfer data over a connection. The greater the bandwidth, the more data that can be transmitted per second. The T1 lines carry about 1.5 megabits of data per second, while the related T3 lines carry over 40.

The City has outgrown its current infrastructure and the T1 line is inadequate for today's needs.

The size of the connection has not changed since the City got its wide area network. The City currently hosts almost 600 personal computers on its network, most of which have Internet access via the T1 connection. Traffic over the City's network has steadily increased, creating greater strain on the current Internet connection. Adding to the strain is the size of files being transferred. As file sizes increase, the more bandwidth is needed to accommodate the load. In addition, the City currently hosts its public website, [www.lodi.gov](http://www.lodi.gov). All traffic into this site comes over the T1 line, further impacting the connection. Virtually all digital activity going into or out of the City goes over the T1 line. Should the City elect to have its public site hosted, updates to the site would need to travel over the City's Internet connection.

Our current carrier, ATT, has reduced the price of their broadband T3 connections with bandwidths ranging from 5 to 100 megabits per second (Mbs). Staff is proposing upgrading the current T1 to a 10 Mbs T3 connection. This will result in an almost seven-fold increase in throughput. In addition to solving all of the current data contention issues, the upgrade will also prepare the City for future advancement of its technical infrastructure. One such technology is online meetings and training sessions.

The annual cost of a T3 line is \$33,048. Offsetting this charge will be \$8,220 in annual savings related to cancellation of the T1 line. The net difference is \$24,828 annually. Virtually all City departments concur with this proposal and have agreed to contribute \$3000 from their budgets to pay for it. If approved, the

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APPROVED: \_\_\_\_\_  
Blair King, City Manager

City of Lodi will join the county and other cities in San Joaquin County in upgrading their communications infrastructure in this way.

**FISCAL IMPACT:** This proposed upgrade has been budgeted for in the 2007/2008 Fiscal Budget.

**BUDGET DISTRIBUTION:**

|                |   |
|----------------|---|
| Police -       | 101031.7313 - (\$3,000)                               |
| Fire -         | 102011.7335 - (\$3,000)                               |
| Public Works – | (125053, \$1,000; 103011, 170401, 180451, \$665 each) |
| EUD -          | 160603.7715 (\$3,000)                                 |
| HSS -          | 108403.7202 (\$3,000)                                 |
| Com Dev. -     | 340451.7313 (\$3,000)                                 |
| Parks & Rec. - | 107011.7717 (\$3,000)                                 |
| Finance -      | 100505.8099 (\$3,000)                                 |

**FUNDING:** Budgeted item: 100242.7335 (Citywide Telephone Budget)

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Kirk Evans, Budget Division Manager

Respectfully Submitted,

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James R. Krueger  
Deputy City Manager

Prepared by:  
Steve Mann, Information Systems Manager



## OPT-E-MAN<sup>®</sup> /CSME Customer Responsibilities Document

### **OPT-E-MAN<sup>®</sup>/CSME Customer Responsibilities**

1. The following information must be provided to your customer prior to service turn-up:
  - If Virtual Local Area Network (VLAN) ID's are required to achieve traffic segregation Ethernet Relay Service, (ERS) also referred to as service multiplexing, the local phone company **WILL ASSIGN** all VLAN IDs to customer traffic/connections.
  - If the customer will utilize Ethernet Wire Service (EWS) i.e. port based point-to-point only, no coordination is necessary as the local phone company will pass both tagged and untagged traffic across the point-to-point connection.
  - The local phone company **WILL NOT** assign an Internet Protocol (IP) address to the customer port. The link between customer and the local phone company is a trunk.
  - The local phone company **WILL NOT** enable Cisco Discovery Protocol (CDP) to/from the SBC port.
  - The local phone company **WILL NOT** enable UniDirectional Link Detection (UDLD).
  - The local phone company **WILL NOT** enable keep-alive.
  - The local phone company will also drop customer's Bridge Protocol Data Unit (BPDU) at User-Network Interface (UNI).
2. To insure maximum throughput efficiency, Traffic Shaping should be enabled on the Customers Provided Equipment (CPE).

When traffic policing is applied on the OPT-E-MAN<sup>®</sup> network, traffic shaping is required in order to ensure that packets are not dropped when entering the network.

**If shaping is not turned on, SBC will randomly drop traffic if the customer exceeds the amount of Committed Information Rate (CIR) that is contracted per connection.** Most routers on the market should support traffic shaping, which makes it easy to implement in its simplest form.

Shaping is supported in the standard Cisco IOS since it is a common IP software function.

OPT-E-MAN<sup>®</sup> can scale from 5 Mbps to 1 Gbps as long as the customer can shape their traffic - If customers are not able to shape their traffic, they should purchase service in the 10/100/1000 Mbps speed tiers to achieve maximum use of the bandwidth. **Failure to comply with this recommendation could result in reduced throughput and performance!**



## OPT-E-MAN<sup>®</sup> /CSME

### Customer Responsibilities Document

#### 3. What CPE is required?

The customer CPE can be a switch, bridge or router. If a customer elects to connect to the OPT-E-MAN<sup>®</sup> or CSME network using a switch or bridge, then the customer must be made aware of the limitations on Media Access Control (MAC) addresses per port.

There are certain types of equipment that can't work with the 3550. The CPE that Cisco has identified are the Cisco 8550 and the Cisco 5550. The basic problem is that these switches will cause an intermittent 2-second flap.

Other vendor's equipment is unknown at this time.

##### **MAC Address Limitations - OPT-E-MAN<sup>®</sup>**

If the customer connects to the OPT-E-MAN<sup>®</sup> network using a bridge or switch for Layer 2 connectivity, there are limits related to number of available MAC addresses per port. For OPT-E-MAN<sup>®</sup> service, a total of 50 MAC addresses can be utilized per Layer 2 device, per port. Any additional MAC addresses will be assessed an additional charge, **with a limit of 100 MAC addresses total per port.**

##### **MAC Address Limitations - CSME**

If the customer connects to the CSME network using a bridge or switch for Layer 2 connectivity, there are limits related to number of available MAC addresses per port. For CSME service, a total of 150 MAC addresses can be utilized per Layer 2 device, per port. Any additional MAC addresses will be assessed an additional charge, **with a limit of 200 MAC addresses per port.**

#### 4. OPT-E-MAN<sup>®</sup> Multicast and Broadcast traffic limitations

**The following information should be shared with your customer regarding traffic controls that are placed on Basic Plus (multipoint-to-multipoint) OPT-E-MAN<sup>®</sup> network configurations**

**Broadcast Traffic** - is used to refer to Ethernet frames that are forwarded to all nodes on the network using the broadcast Ethernet address.

**Multicast Traffic** - is used to refer to Ethernet frames that are forwarded, in a point to multipoint fashion, across the network to multiple recipients that belong to groups that are identified using any of the multicast Ethernet addresses defined by the Internet Assigned Numbers Authority (IANA) as Internet Multicast.

**Reason for Controls** - Continuous and unpredicted floods of broadcast and multicast traffic can use substantial network bandwidth to the point of overloading the network's capacity. For this reason, it is necessary to place the following limits on the traffic types noted above:

Broadcast traffic limitation = 200 packets per second per port

Multicast traffic limitation = 1 Mbps per port



## OPT-E-MAN<sup>®</sup> /CSME

### Customer Responsibilities Document

**5. The customer must provide the following prior to the SBC local phone company installing the Cisco 3550 NTE**

The customer must provide a 110Volt 15 amp AC outlet, preferably dedicated to each 3550 installed on the premise. (Please see attached Customer OPT-E-MAN<sup>®</sup> Prep document for necessary Power, Grounding, Space, Conduit, and Environmental requirements.)

**6. The customer must complete the following on the CPE prior to service turn-up.**

- If the customer is connecting to a 3550 port that *will not* have multiple Ethernet Virtual Connection (EVC)'s assigned to a 10/100 Mbps connection, the local phone company will require customer to configure the interfacing data port with the following:
  - Speed set to 100 Mbps (No auto-negotiation)
  - Duplex set to Full (No auto-negotiation)
  - Traffic Shaping/Policing - limit output rate at or below the bandwidth usage purchased per connection
  - If utilizing multipoint-to-multipoint configuration, customer should enable controls for multicast and broadcast traffic within the customer network(s).
- If the customer is connecting to a 3550 port that *will* support multiple EVCs assigned to a 10/100 Mbps connection, the local phone company will require the customer to configure the interfacing data port with the following:
  - VLAN tagging - Customer traffic needs to be tagged with local phone company assigned VLAN(s) provided by the Ethernet Network Operations Center (ENOC)
  - Speed set to 100 Mbps (No auto-negotiation)
  - Duplex set to Full (No auto-negotiation)
  - Traffic Shaping/Policing - limit output rate at or below the bandwidth usage purchased per connection
  - If utilizing multipoint-to-multipoint configuration, customer should enable controls for multicast and broadcast traffic within the customer network(s).
- If the customer is connecting to a 3550 port that *will not* have multiple EVCs assigned to the 1 Gbps connection, the local phone company will require the customer to configure the interfacing data port with the following:
  - Speed set to no auto-negotiation
  - Duplex set to full
  - Traffic Shaping/Policing - limit output rate at or below the bandwidth usage purchased per connection
  - If utilizing multipoint-to-multipoint configuration, customer should enable controls for multicast and broadcast traffic within the customer network(s).
- If the customer is connecting to a 3550 port that *will* have multiple EVCs assigned to the 1 Gbps connection, the local phone company will require the customer to configure the interfacing data port with the following:



## **OPT-E-MAN<sup>®</sup> /CSME**

### **Customer Responsibilities Document**

- VLAN tagging - Customer traffic needs to be tagged with the local phone company assigned VLAN(s) provided by the ENOC
- Speed set to no auto-negotiation
- Traffic Shaping/Policing - limit output rate at or below the bandwidth usage purchased per connection
- If utilizing multipoint-to-multipoint configuration, customer should enable controls for multicast and broadcast traffic within the customer network(s).

#### **7. Caveats for installation of service:**

- Changes to Customer Requirements – should the customer change interface types, quantities, or locations this would invalidate the network design agreed upon between SBC and the customer. This could delay service turn-up as it may result in a change in the type of Network Termination Equipment (NTE) to which the customer will be connecting.
- Distance limitation – The customer may need to address signal regeneration beyond the demarcation. Demarcations will be implemented consistent with the regional MPOE and Demarcation rules. See the following table for signaling limits from the SBC NTE, which will be at some point behind the demarcation.

| Circuit Speed | Cable type                          | Overall Limit |
|---------------|-------------------------------------|---------------|
| 100 Mb        | UTP electrical<br>(CAT5e or better) | 90 M          |
| 1000-SX       | 50u Multi-Mode Fiber                | 550M          |



# **OPT-E-MAN<sup>®</sup> /CSME**

## **Customer Responsibilites Document**

**SBC Sales Representative:**

\_\_\_\_\_

**Telephone Number:** (        ) \_\_\_\_\_

**Date Reviewed with Customer:**        /        / 200\_\_ **(Month/Day/Year)**

**Customer Site Contact Name:** \_\_\_\_\_

**Telephone Number:** (        ) \_\_\_\_\_

**SBC CUSTOMER REQUIREMENTS WORKSHEET AND  
MEMORANDUM OF UNDERSTANDING FOR OPT-E-MAN® and CSME  
INSTALLATION**

THE FOLLOWING LIST OF REQUIREMENTS MUST BE FULLY MET BEFORE THE  
INSTALLATION PROCESS OF ANY SBC OPT-E-MAN EQUIPMENT WILL BEGIN.  
**THESE REQUIREMENTS SHALL BE COMPLETE 30 DAYS PRIOR TO EQUIPMENT  
PLACEMENT OR AS MUTUALLY AGREED DATE ON OR BEFORE \_\_\_\_\_**

- ☐ 1) **Space Requirement:** Cisco WS-3550-24-SMI or WS-3550-12G will be placed in an SBC or customer provided 19" or 23" bay or cabinet. **Customer provided racks/cabinets require approval and evaluation by SBC Common Systems staff. Requests should be sent to the respective Product Manager using the form entitled, "Application for Non-Standard Installation: Customer Provided Rack or Cabinet".**



Customer Provided  
Rack

**Requests to install mixed SBC services require approval and evaluation by SBC Common Systems staff. Requests should be sent to the respective Product Manager using the form entitled, "Application for Non-Standard Installation: Mixed SBC Network Services Equipment".**



Mixed Services

OSHA requires a minimum of 36" to the front and rear of the bay/cabinet. The bay/cabinet has to be securely mounted and earthquake braced by bolting to the floor.

**SPECIAL POLICY FOR MIXED DEPLOYMENT of GigaMAN/FibreMAN/DecaMAN and OPT-E-MAN®/CSME:**

**SBC supports the needs of our customers to maximize their floor / rack space. In cases where the customer requests to deploy equipment for the above services in the same rack, such requests shall be allowed (without Sales submitting the Mixed Services Request Form) with the following caveats:**

**Local engineer (with sales/customer concurrence) confirms**

- Power supply for each device is adequate and not in conflict
  - Since the 3550-12 is AC powered, the cord must be physically separated from all signal cabling in the relay rack
  - Anticipated growth for each service will not exceed current equipment capacity, or if exceeded, will not trigger additional SBC / customer investment that would not have been necessary had we deployed the services separately
  - No power protection ("battery back-up) is required for this equipment now or in the future
- This policy is not applicable for installations involving a Nortel OM5200 at customer premises.**

- ☐ 2) **Power Requirements:** Cisco WS-3550-24-SMI or WS-3550-12G requires one dedicated fused/breaker, 15 amp, 110V AC outlet. Properly grounded, 3 prongs. This receptacle has to be located within 6' of the Cisco equipment.



- ☐ **3) Fiber Termination:** There are currently (2) options available for Fiber Termination
- #1) Rack mounted in an SBC or customer provided 19" or 23" aluminum or steel relay rack.
  - #2) Wall mounted on a customer provided 3/4"x 4'x 6' plywood backboard.



3550 WALL MOUNT  
CUST PREP v1.p...

- ☐ **4) Demarcation Selection:** There are currently (2) options available for circuit demarcation. ("Hand-off Point")
- #1) Rack mounted in an SBC or customer provided 23" or 19" aluminum or steel relay rack.
  - #2) Wall mounted on a customer provided 3/4"x 4'x 6' plywood backboard.

- ☐ **5) Supporting Structure:** (must meet National Electric Code Standards) may be either a cable rack or a metallic EMT conduit.

- ☐ **6) Grounding Requirements:** Relay racks/cabinets must be grounded by placing an exposed #6 or larger grounding wire to the building's ground source. This ground wire will be attached to the closest ground rod (earth ground) or building bus bar available and run to the OPT-E-MAN® location in the room. In addition, the 110V, 15 amp AC outlet must be 3 prong and properly grounded.

- ☐ **7) Environment (OPT-E-Man location):** The customer shall provide a safe, secure, dust-free environment. This location should be free of any major EFI/RFI fields. The OPT-E-MAN® equipment cannot be closer than 3' from any primary source of power. If the equipment is being placed during a period of new or scheduled construction, the Fiber Engineer from SBC will determine if the location is suitable for installation after his initial site inspection. The engineer will determine at the time of the final inspection, prior to the actual placement of the equipment, if the room is ready for the installation to begin. If the room is not ready, the customer will be notified of the unsatisfactory items to correct.

- ☐ **8) Conduit/Path (property line to Minimum Point of Entry/MPOE):** All conduits on the building's property are "subscriber conduit" and are the responsibility of the property owner to maintain and repair. If the conduit is blocked when SBC tries to place new cable, all work will stop until the property owner makes the necessary repairs. The project will be on a "customer hold status" until the conduit is repaired and the engineer has been notified that the repairs are complete. SBC shall place inner duct/fiber liner within this section.

- ☐ **9) Conduit/Path (fiber termination to OPT-E-Man location):** SBC requires the OPT-E-MAN® to be placed in the MPOE. If there is no space in the MPOE, or if the customer requests that the switch be placed in their suite, the customer will assume the responsibility of providing the path from the MPOE to that location. The customer shall provide conduit (min. 2" EMT) and **hard plastic corrugated inner duct** with pull rope through which the fiber will be placed. The size of the conduit will be dependent on the future growth of the customer. Any more than 300' or 2 - 90 degree turns in the path will require a pull box (12"x12"x18" minimum).

- ☐ **10) General Requirement:** Provide the following information for the SBC Technicians:
- #1) Contact name and telephone number at building where install is scheduled.
  - #2) Any asbestos or hazardous materials present in work area.
  - #3) Any noise or time restrictions.

#4) Building access information such as parking, unloading zones, elevators and route to work area.

#### Environment

It is expected that the customer will provide a safe work environment and that all customer requirements have previously been met (SBC Engineers will provide building requirements.) If for some reason customer requirements can't be met, Siebel Systems would notify SBC so that they are able to reschedule resources. The installation of the equipment currently scheduled would need to be rescheduled.

#### Assumptions

Complete and correct service orders will be issued in a timely manner to allow downstream work groups adequate time to complete their work.

Room ready requirements will be complete by agreed date.

Customer will be prepared and have appropriate staff designated to test and accept service on due dates.



Customer  
Responsibility

#### MAC Address Limitations for OPT-E-MAN®

If the customer connects to the OPT-E-MAN® network using a bridge or switch for Layer 2 connectivity, a total of 50 MAC addresses can be utilized per Layer 2 device, per port. Any additional MAC addresses will be assessed an additional charge, **with a limit of 100 MAC addresses total per port.**

#### MAC Address Limitations for CSME

If the customer connects to the CSME network using a bridge or switch for Layer 2 connectivity, a total of 150 MAC addresses can be utilized per Layer 2 device, per port. Any additional MAC addresses will be assessed an additional charge, **with a limit of 200 MAC addresses total per port.**

The engineer and the customer will agree to a date for the expected completion of any required customer-site preparation work. **The customer understands that any delays in completing their room ready or providing a path will result in delays in SBC's ability to fulfill their service request.**

The undersigned customer or representative understands and agrees to provide all the above listed requirements for SBC prior to the installation process.

Customer /Representative \_\_\_\_\_ Date \_\_\_\_\_

SBC Engineer \_\_\_\_\_ Date \_\_\_\_\_

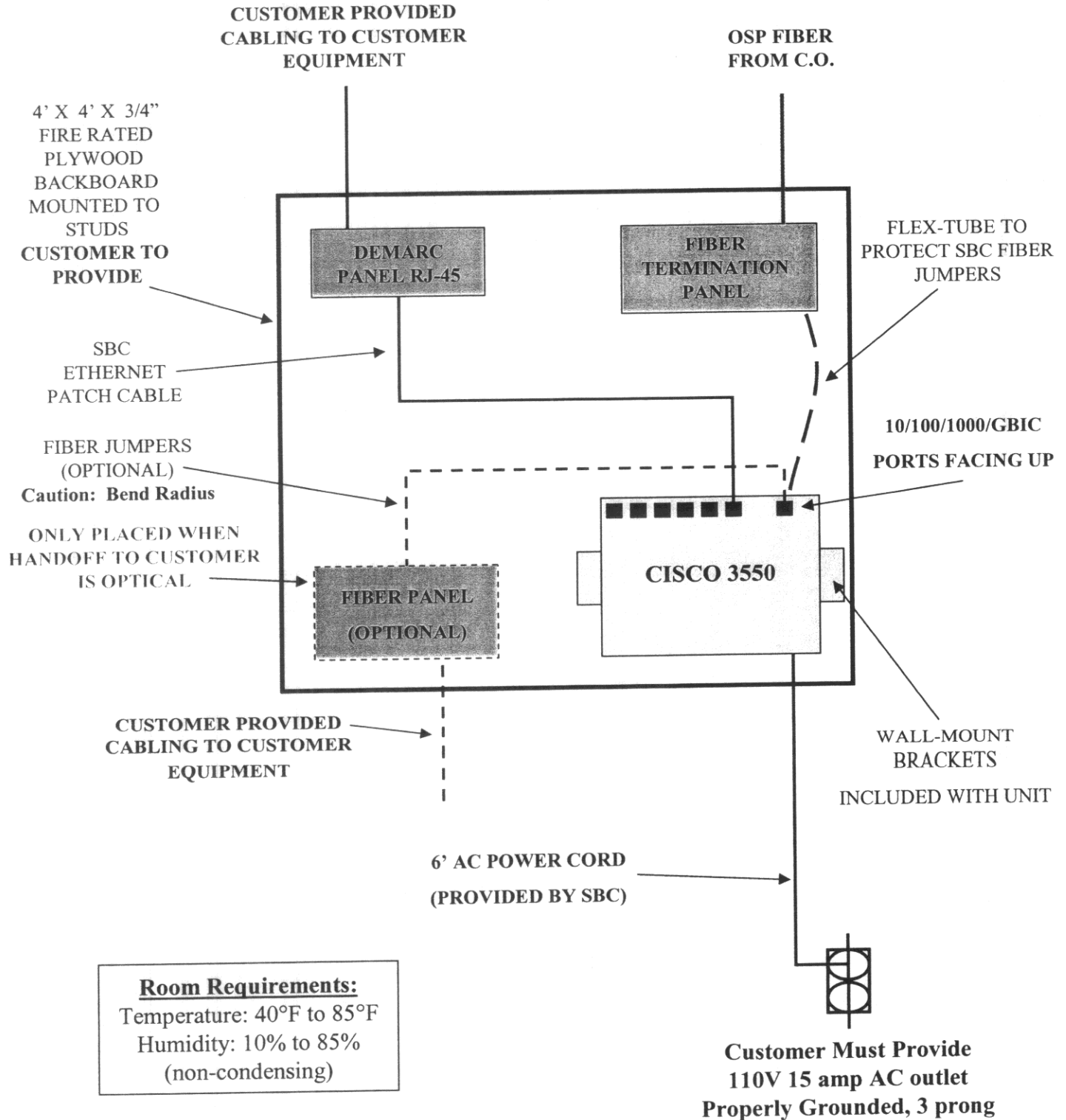
**(Signed and Dated by Engineer after room has passed all final inspections/requirements)**



# Customer Site Preparation Document

## Wall-Mounted Cisco 3550

OPT-E-MAN and CSME



## Master Agreement

This Master Agreement (the "Agreement") is between SBC Global Services, Inc. dba AT&T Global Services, a Delaware corporation with offices at One AT&T Plaza, Dallas, Texas 75202, on behalf of itself and those Affiliates identified in those Addenda, Attachments, Orders, and/or SOWs that may be entered into from time to time and incorporated by reference into this Agreement (individually and collectively, "AT&T") and CITY OF LODI ("Customer"), a California government agency, with offices at 221 West Pine Street, Lodi, CA 95240, is effective on the date of last execution ("Effective Date"). AT&T and Customer are sometimes referred to herein collectively as the "Parties" or individually as a "Party."

References to "Agreement" refer to this Agreement, any applicable tariff or guidebook, and the documents listed in the Addendum and Attachment List, including any Statement of Work ("SOW"). New or revised Addenda, Attachments, Orders, and/or Statements of Work must be signed by Customer and AT&T Affiliate. The following order of precedence applies to the documents comprising an Agreement: (1) any applicable guidebook and tariff(s), (2) Addenda (and related SOWs and Attachments), (3) this Agreement, and (4) Orders.

Notices from a Party concerning this Agreement must be written and delivered to the other Party at the address(es) below (i) in person, (ii) by certified mail, return receipt requested, (iii) by traceable overnight delivery, or (iv) by facsimile, electronically confirmed and followed immediately by U.S. Mail. Notice will be effective upon delivery.

To Customer: CITY OF LODI  
221 West Pine Street, Lodi, CA 95240 ( for messenger service deliveries )  
P. O. Box 3006, Lodi, CA 95241-1910 ( for US Postal Service mail only )  
Fax: 209-333-6807  
Attention: Telecommunications Contract Manager

To AT&T: AT&T Sales Team – Contract Notice  
44 W Yokuts Avenue, Floor 1  
Stockton, CA 95207  
Fax: 209-474-4325  
Attention: AT&T Account Team for CITY OF LODI

SO AGREED by the Parties' respective authorized signatories:

| CITY OF LODI | AT&T GLOBAL SERVICES |
|--------------|----------------------|
| By: _____    | By: _____            |
| Name: _____  | Name: _____          |
| Title: _____ | Title: _____         |
| Date: _____  | Date: _____          |

Approved as to form



City Attorney

*This Agreement is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their companies.*

## Master Agreement Terms and Conditions

### 1. DEFINITIONS

- 1.1 "Affiliate" means an entity that controls, is controlled by, or is under common control with a Party.
- 1.2 "Confidential Information" means ideas, know-how, trade secrets, computer programs, technical information, and other confidential information which is disclosed by a disclosing Party to a receiving Party under this Agreement. The terms of this Agreement shall be deemed Confidential Information by the Parties.
- 1.3 "Cutover" occurs (except as otherwise described herein or in an Addendum/Attachment/SOW) (a) for a Service when the Service is first provisioned or otherwise available for Customer's use at any single Site; and/or (b) for Equipment when the Equipment is delivered to the carrier for shipment, or if installation by AT&T is provided as part of the Services, then upon AT&T's installation of the Equipment.
- 1.4 "Equipment" means equipment that AT&T sells or leases to Customer under this Agreement.
- 1.5 "Software" means computer programs and related object code licensed by AT&T to Customer, including any software licensed with or separately from Equipment.
- 1.6 "Normal Business Hours" means Monday through Friday, 8:00 a.m. to 5:00 p.m. (local time), excluding AT&T recognized holidays.
- 1.7 "Order" means any purchase order for Equipment or Services that references this Agreement (or an Addendum).
- 1.8 "Service(s)" means any or all services provided by AT&T, as further described in this Agreement or an Addendum.
- 1.9 "Site(s)" means Customer locations where AT&T is to perform Services.

### 2. SERVICE-SPECIFIC TERMS AND CONDITIONS

- 2.1 Limitation on Service; Applicability of Tariffs. Service is offered subject to the availability and operational limitations of the necessary systems, facilities, and equipment. Except as otherwise specified in an Addendum, regulated Services (e.g., local or long distance telephone service) are subject to applicable tariffs and/or guidebooks (generally available at [www.sbc.com](http://www.sbc.com) or from an AT&T sales representative). Customer and any Customer end-user use of Service shall at all times comply with applicable laws, regulations and any AT&T written or electronic instructions for use.
- 2.2 Payment and Billing. Customer will pay AT&T (i) the monthly fees and nonrecurring charges set forth in the applicable Addendum (or, in the case of regulated services, at the charges set forth in the applicable tariff and/or guidebook), and (ii) applicable taxes, surcharges, and recovery fees (including universal service fees), and customs and duties. Except as otherwise provided in the applicable Addendum, (i) billing commences on Cutover; (ii) payment is due within 30 days after the date of invoice; and (iii) payment is subject to AT&T's credit requirements and AT&T may require a security deposit to ensure prompt payment. Customer will advise AT&T of any billing dispute within 30 days after receipt of invoice or the invoice shall be deemed correct. In addition to recovering attorneys' fees and costs of collection, AT&T may assess a late payment fee equal to (i) the lesser of 1.5% per month or the maximum amount allowed by law for Equipment or non-regulated Services, and (ii) as prescribed by the applicable tariff or guidebook for regulated Services. If Customer pays electronically, Customer agrees to pay using Automated Clearing House (ACH) which shall include remittance information.

### 3. GENERAL TERMS AND CONDITIONS

- 3.1 Term and Termination. This Agreement will start on the Effective Date and remain in effect until terminated by either Party as provided herein (the "Term"). Each Addendum is coterminous with this Agreement, unless the Addendum specifies a different term. Upon expiration of the term specified, each Addendum shall remain in effect on a month-to-month basis at AT&T's then current monthly pricing. Customer, and AT&T (in the case of Services that are no longer under a term commitment), may terminate this Agreement or an Addendum without cause and for convenience upon 30 days' prior written notice. If Customer terminates an Addendum with a specified term or term commitment, Customer shall pay the termination liability (i) specified in the Addendum; or (ii) if no termination liability is specified, an amount equal to (a) 50% of the remaining monthly recurring charges due under the Addendum; and (b) any charges imposed on AT&T by any third party as a result of Customer's early termination. Customer may cancel an Order for Equipment prior to Cutover, subject to payment of any non-recoverable restocking fees or costs incurred by AT&T. Customer may not cancel an Order for Equipment after Cutover.
- 3.2 Termination for Breach. This Agreement (or applicable Addendum) may be terminated immediately by either Party or AT&T may suspend performance hereunder or thereunder, upon written notice to the other Party if the other Party (i) is in material breach (including but not limited to failure to make timely undisputed payments) and such failure or breach is not remedied within 30 days after the terminating Party provides written notice to the breaching Party specifically describing such breach; (ii) ceases to carry on business as a going concern, becomes the object of voluntary or involuntary bankruptcy or liquidation, or a receiver is appointed with respect to a substantial part of its assets; (iii)

#### CONFIDENTIAL INFORMATION

*This Agreement is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their companies.*

## Master Agreement Terms and Conditions

engages in fraud, criminal conduct, or willful misconduct; or (iv) breaches the confidentiality obligations under this Agreement.

- 3.3 Force Majeure. Except in the case of payment of amounts due, neither Party will be liable to the other Party for any failure of performance due to any cause beyond that Party's reasonable control, including acts of God, fire, explosion, vandalism, terrorism, cable cut, storm, or other similar occurrence, any law, order, regulation, direction, action, or request by any government, civil, or military authority, national emergencies, insurrections, riots, wars, labor difficulties, supplier failures, shortages, breaches, or delays, or preemption of existing Service to restore Service in compliance with the regulatory rules and regulations, or, in the case of AT&T, delays caused by Customer or Customer's service or equipment vendors.
- 3.4 Assignment. Neither this Agreement (including any Addendum) nor any interest therein may be assigned, sublet, or in any manner transferred by Customer without the prior written consent of AT&T. Any attempted assignment or transfer in contravention of the preceding sentence will be void. AT&T may assign or subcontract any portion of the Services to be performed without Customer's prior written approval.
- 3.5 Use of Confidential Information. During the Term, each Party may obtain Confidential Information from the other Party. Written or other tangible Confidential Information must at the time of disclosure be identified and labeled as Confidential Information belonging to the disclosing Party. When disclosed orally or visually, Confidential Information must be identified as confidential at the time of the disclosure, with subsequent confirmation in writing within 15 days after disclosure. Neither Party may during the Term and for 3 years thereafter disclose any of the other Party's Confidential Information to any third party. Neither Party may use the other Party's Confidential Information except to perform its duties under this Agreement. The Confidential Information restrictions will not apply to Confidential Information that is (i) already known to the receiving Party, (ii) becomes publicly available through no wrongful act of the receiving Party, (iii) independently developed by the receiving Party without benefit of the disclosing Party's Confidential Information, or (iv) disclosed by the disclosing Party to a third party without an obligation of confidentiality. Upon termination of this Agreement or an applicable Addendum, each Party will return the other Party's Confidential Information.
- 3.6 Customer Information; Access and Safe Working Environment. AT&T may rely on any information provided by Customer and assumes no liability for any damages or costs that result from errors or omissions in such information. Customer shall provide AT&T with timely access to Customer information, facilities or equipment as AT&T reasonably requires to provide the Services and keep AT&T informed on developments in Customer's business or operations that may impact Service. AT&T may share Customer information and Confidential Information (including billing and usage information for Services purchased) with AT&T Affiliates and inform Customer of other AT&T product/service offerings. Customer shall maintain the Site in a suitable and safe working environment, free of Hazardous Materials. Customer represents and warrants that the area of the Site where AT&T performs Services is free of Hazardous Materials. AT&T does not handle, remove or dispose of, nor does AT&T accept any liability for, any Hazardous Materials at the Site. Customer shall pay AT&T for any damages, costs, fines or penalties AT&T incurs as result of the presence or release of such Hazardous Materials. If AT&T encounters any such Hazardous Materials, AT&T may terminate this Agreement or suspend performance until Customer removes and cleans up at its expense Hazardous Materials in accordance with this Agreement and applicable law. For purposes hereof, "Hazardous Materials" means any substance whose use, transport, storage, handling, disposal, or release is regulated to any law related to pollution, protection of air, water, or soil, or health and safety.
- 3.7 Publicity. During the Term, AT&T may refer to Customer, orally and in writing, as a customer of AT&T and may publish a press release announcing in general terms that AT&T and Customer have entered into this Agreement and AT&T may in general terms describe the activities contemplated hereunder. Any other reference to one Party by the other Party requires written consent of the first Party.
- 3.8 Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES RELATED TO LOST PROFITS, TOLL FRAUD, LOSS OF USE, AND LOSS OF DATA, OR FAILURE TO REALIZE SAVINGS OR BENEFITS) ARISING UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS. EXCEPT AS OTHERWISE PROVIDED IN ANY APPLICABLE TARIFF OR GUIDEBOOK, THE TOTAL AGGREGATE LIABILITY OF AT&T, ITS SUPPLIERS, LICENSORS, AFFILIATES, DIRECTORS, OFFICERS, AND/OR EMPLOYEES UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED AMOUNTS ACTUALLY PAID BY CUSTOMER DURING THE 3-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CIRCUMSTANCES GIVING RISE TO THE FIRST CLAIM FOR DAMAGES UNDER THIS AGREEMENT.

### CONFIDENTIAL INFORMATION

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## Master Agreement Terms and Conditions

- 3.9 Warranties; Disclaimer of Other Warranties. With respect to maintenance or professional Services, AT&T warrants that the Services will be performed in a professional and workmanlike manner. AT&T further warrants that it has good title to the Equipment and that the Equipment will perform in accordance with the manufacturer's published specifications during the warranty period set forth by such manufacturer and AT&T will use commercially reasonable efforts to subrogate any AT&T claims or rights against the Equipment manufacturer to Customer. AT&T makes no warranties and assumes no liability for any defects or nonconformities caused by non-AT&T approved modifications or alterations; misuse, accident or neglect; or Customer failure to comply with AT&T or AT&T vendor specifications or requirements for use. These warranties do not cover and AT&T has no responsibility for (a) installation, maintenance or operation of non-AT&T provided equipment or software or impairment caused by such equipment/software; (b) compatibility of such equipment/software with AT&T-provided Equipment or Software; or (c) modifications, alternations or repairs to Equipment or Software by persons other than AT&T or its authorized agents. EXCEPT FOR THE FOREGOING, OR AS EXPRESSLY SET FORTH IN AN ADDENDUM, AT&T MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES RELATED TO THE MATERIALS, SERVICE, EQUIPMENT OR SOFTWARE, ALL OF WHICH ARE PROVIDED "AS IS" TO THE FULL EXTENT PERMITTED BY LAW.
- 3.10 Indemnities. Customer will indemnify and defend AT&T, its directors, officers, employees, agents and their successors ("Agents") from and against any and all third party claims and related loss, liability, damage and expense, including attorneys' fees, (collectively "Damages") arising from improper use of Services or information or any content or data transmitted over any AT&T network or facilities.
- 3.11 Equipment. To the extent that Customer purchases Equipment under an Addendum/Attachment/SOW, the following additional terms apply: AT&T will deliver the Equipment FOB shipping point, freight prepaid and charged. Title to the Equipment and all risk of loss to the Equipment shall pass to Customer at Cutover. Upon Cutover, AT&T hereby grants to Customer a personal, nontransferable, non-exclusive license to use the Software on or with the corresponding Equipment and AT&T (or its licensors) shall retain and continue to own all right, title and interest in any Software and all copies. Customer will furnish any conduit, holes, wireways, wiring, plans, equipment, space, power/utilities, and all other items reasonably required to perform installation and other Services related to the Equipment and obtain any necessary licenses, permits and consents to do so. Customer has 30 days after Cutover to test the Equipment and provide AT&T with written notice if the Equipment is defective and does not conform to manufacturer's specifications. AT&T will repair or replace (at its option and expense) any such non-conformity and if the Equipment fails to conform after a reasonable number of attempts to do so, AT&T will (at its option and expense) provide replacement Equipment or refund payments for non-conforming Equipment. AT&T is not responsible for and shall have no liability for, or any impairment caused by (a) any non-conformity caused by improper use or environmental or electrical conditions or attachment of non-AT&T or manufacturer materials or devices; or (b) installation, operation or maintenance of non-AT&T hardware/software. Customer is responsible for ensuring that such non-AT&T hardware/software is compatible with the Services, Equipment or Software. If Customer does not deliver a written certificate of acceptance or written notice of non-conformity within 30 days after Cutover, the Equipment shall be deemed accepted.
- 3.12 Miscellaneous. This Agreement sets forth the entire understanding of the Parties and supersedes any and all prior agreements, representations, and understandings relating to the subject matter hereof. No modifications or subsequent agreements concerning the subject matter of this Agreement will be effective unless made in writing and signed by the Parties. The parties agree that this transaction may be conducted by electronic means. AT&T shall not be bound by any electronic or pre-printed terms additional to, or different from, those in this Agreement that may appear in Customer's form documents, orders, acknowledgments or other communications. Customer shall not resell any Services without AT&T's written consent. Any legal action arising under this Agreement must commence within 2 years after the cause of action arises. AT&T, its employees, agents, and representatives are not employees, servants, partners, or joint venturers of or with Customer. AT&T is an independent contractor and will at all times direct, control, and supervise all of its employees. This Agreement will be governed by the laws of California, without regard to its conflicts of law rules. The Parties specifically disclaim the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act. If any provision of this Agreement is determined to be invalid or unenforceable, this Agreement will be construed as if it did not contain such provision. The failure of a Party to insist upon strict performance of any provision of this Agreement in any one or more instances will not be construed as a waiver or relinquishment of such provision and the same will remain in full force and effect.

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### **Addendum and Attachment List**

This Addendum and Attachment List to the Master Agreement (the "List") between AT&T and Customer, current as of the Effective Date, is incorporated into the Agreement by this reference. All Addenda and Attachments shall be attached to the Agreement.

|             |  |
|-------------|--|
| ADDENDUM #1 | AT&T OPT-E-MAN FCC SPECIAL ACCESS<br>TARIFF - Addendum to Master Agreement     |
| ADDENDUM #2 | AGREEMENT FOR AT&T PremierSERVSM<br>DEDICATED INTERNET ACCESS (DIA)            |
| ADDENDUM #3 | AT&T PremierSERVSM DEDICATED INTERNET<br>ACCESS SERVICE - Terms and Conditions |

This List may be amended from time to time in writing and signed by the Parties.

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**AT&T OPT-E-MAN®**  
**FCC Special Access Tariff**  
**Addendum to Master Agreement**

This Addendum to the Master Agreement entered into between the parties on August \_\_\_\_, 2007 ("Addendum") serves as a confirmation of Customer's agreement to purchase OPT-E-MAN® Service ("Service") offered by SBC Global Services, Inc. dba AT&T Global Services on behalf of its local phone company ("AT&T") at the rates and quantities and according to the terms and conditions set forth herein and in the applicable FCC Special Access Tariff. OPT-E-MAN provides Customer with a fiber-based service that transparently interconnects multiple Customer local area networks (LANs) within the same LATA. OPT-E-MAN will support nearly any data transport configuration – Point-to-Point, Point-to-Multipoint, Multipoint-to-Multipoint – using physical and virtual connections to meet specific business needs. Connections to the network range from 5 Mbps - 1 Gbps. The handoff to Customer will be a 10/100 Mbps or 1 Gbps Ethernet interface. If Customer connects to the OPT-E-MAN network using a bridge or switch for Layer 2 connectivity, only 50 Media Access Control (MAC) addresses can be used per Layer 2 device, per port. Any additional MAC addresses will be assigned additional charges, with a limit of 100 MAC addresses total per port as set forth in the applicable tariff.

**1. Rates:** Monthly charges for the Service Connection and the Bandwidth Usage Rate are based on the rates in effect at the time the Service is installed and accepted by Customer. During the Service term, rate decreases, as applicable, will automatically be applied to the Monthly Charges for the Connection and Bandwidth Usage Rate and any applicable EVCs. Rates will not increase above the Monthly Charges in this Addendum. Monthly charges for the Connections, Bandwidth Usage Rate and applicable EVCs may change if a Service location is moved.

**2. Term and Expiration:** The Service term for the Connection and the Bandwidth Usage Rate is the term selected by Customer on page 2, Term Payment Plan ("TPP"). Upon expiration of the Service term, Customer may continue Service at the then-current monthly extension rate, renew at the then-current Monthly Rates for the selected Service term, or terminate the Service term and disconnect the Service.

**3. Term Plan Renewal or Change:** Prior to completion of the selected term, Customer may renew or change to a different term plan without incurring early termination charges, provided the new term plan is for an equal or greater number of connections than the number ordered herein and is greater in length than the months remaining on the Service term plan ordered herein. Monthly Rates for the new term will be based on rates in effect at the time the new plan is installed.

**4. Service Upgrade:** Customer may upgrade Service to a higher Connection speed and Bandwidth Usage Rate without incurring early termination charges provided that the upgraded Service is under a term plan that is equal or greater in length than the number of months remaining in the term plan ordered herein and is installed between the locations herein. Non-recurring charges will apply to the upgraded Service.

**5. Moves:** During the Service term, Customer may move one connection to another location in the same LATA and keep the term plan in force, provided no lapse in service occurs. Moves to a different Serving Wire Center, however, may result in a change in the monthly rates. Non-recurring Charges, as appropriate, are applicable. The non-recurring charge that is currently in effect for the applicable TPP will apply. If Customer moves multiple connections concurrently, Customer will be liable for an early termination charge.

**6. Early Termination:** In the event Customer terminates the Service in whole or in part prior to the expiration of the term plan (except as otherwise permitted in this Addendum), Customer will be liable for an early termination charge for the Connections, Bandwidth Usage Rate and applicable EVCs. The non-recurring charge that is currently in effect for the applicable TPP will apply. In addition to any unpaid Special Construction or nonrecurring charges (excluding any waived charges), Termination Charges will be equal to fifty percent (50%) of all recurring charges for the remaining months of Customer's term.

**7. Jurisdiction:** Customer acknowledges and certifies that interstate traffic (including Internet traffic) constitutes **more than ten percent (10%)** of the total traffic on the circuit(s).

**8. Site preparation:** Customer shall initial here to confirm receipt of the AT&T Customer building / site preparation document which describes the physical conditions of Customer premises that must be made available before Service can be installed. Customer site preparation is a major factor impacting service implementation dates.

Customer Initials: \_\_\_\_\_

**SO AGREED** by the parties' respective authorized signatories:

**CITY OF LODI**

\_\_\_\_\_  
Authorized Customer Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

221 W. Pine Street, P. O. Box 3006

**AT&T GLOBAL SERVICES**

\_\_\_\_\_  
Authorized AT&T Signature

\_\_\_\_\_  
Print Name

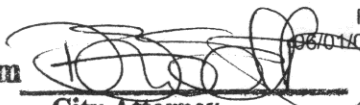
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**CONFIDENTIAL INFORMATION**

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**Approved as to form**

  
\_\_\_\_\_  
City Attorney

**AT&T OPT-E-MAN®  
FCC Special Access Tariff  
Addendum to Master Agreement**

**Billing Address**

Lodi, California 95241-1910

City, State, and Zip

Existing Billing Account Number (if applicable)

**NOTE:** The Parties' signatures on this Addendum are not necessary when this Addendum is incorporated by reference in the Master Agreement on the Master Agreement's Effective Date. This Addendum must always be associated with a Master Agreement and may not be executed as a standalone agreement.

**Order Type:** ☒ New Install ☐ Renewal ☐ Change **Term Payment Plan: 36 months**  
**Service:** ☐ Basic Service ☒ Basic Plus Service  
Number of Connections: 1 Grade of Service: ☐ Bronze ☒ Silver  
Number of Locations: 1 (Bandwidth per connection is listed in Exhibit 1)  
Number of Repeaters: Total Number of EVCs: 1 (Number of EVCs per connection is listed in Exhibit 1)  
**Requested Cutover Date: 11/1/2007**  
Monthly Charge for Connections \$550.00  
Monthly Charge for Repeaters \$0.00  
Bandwidth Usage and EVC Charges per month \$1190.00  
**TOTAL CHARGES PER MONTH \$ 1740.00**  
**Non-Recurring Service Charges \$0.00**

**SERVICE CONFIGURATION IS ATTACHED AS EXHIBIT 1**

***This section for internal use only***

Branch Office: \_\_\_\_\_ AT&T Business Solutions Center Location: \_\_\_\_\_  
Sales Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_ Promotion Code: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Sales Code: \_\_\_\_\_

**Contract must be returned by salesperson to Contract Management:**

**2600 Camino Ramon, 2S303, San Ramon, CA 94583**

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## EXHIBIT 1

### OPT-E-MAN® SERVICE CONFIGURATION

RBOC\_reg  
06/01/06 pw9469

**Addendum to Master Agreement for  
AT&T PremierSERVSM Dedicated Internet Access (DIA)**

**Addendum No. #2**

This Addendum ("Addendum") is an Attachment to the Master Agreement entered into by AT&T Global Services, on behalf of AT&T Internet Services referred to herein as "AT&T" and City of Lodi ("Customer"), and is effective on the date of last execution. Execution of this Addendum is conditioned on AT&T's approval of Customer's credit. AT&T reserves the right to reject this Addendum or require a deposit based on Customer's credit.

Installation Site: City of Lodi  
215 W Elm Street  
Lodi, CA 95241

Valid only for existing Customers adding circuits or sites/upgrading/downgrading/renewing current DIA Service. Any other use is prohibited.

| Basic - Port                             |  | Quantity | Monthly Charge | Installation Charge |
|--|--|----------|----------------|---------------------|
| Contract Term: 36 Months                 |  |          |                |                     |
| Basic - Port EDIA OPT-E-MAN {*10.0 Mbps} |  | 1        | 947            |                     |
| Domain Name Service                      |  |          |                |                     |
| Business Email (300Mb Complimentary)     |  |          |                |                     |
|  |  |          |                |                     |
|  |  |          |                |                     |
|  |  |          |                |                     |
|  |  |          |                |                     |
|  |  |          |                |                     |
|  |  |          |                |                     |

| Payment for Services      |          |
|---------------------------|----------|
| Total Initial Charges Due | \$0.00   |
| Total Monthly Charges Due | \$947.00 |

Estimated Service Activation Date: 12-16 Weeks from Contract Signature Date

Service Demarc to customer is : SBCIS Servicing Wire Center for CA-STOCKTON (738) Internet POP

Price Quote(s) contained on this page are valid until 09/28/2007

AT&T Address (for Notice Purposes): AT&T Internet Services, P.O. Box 941127, Plano, TX 75094-1127

Customer Support Telephone Number: 1-866-937-3664

Governing Law State: California

The AT&T PremierSERVSM Dedicated Internet Access Service Terms and Conditions (Version 4.3) are available online at [http://dedicated.sbcis.sbc.com/NDWS/sbc\\_policy/terms.jsp](http://dedicated.sbcis.sbc.com/NDWS/sbc_policy/terms.jsp), and are incorporated herein by reference.

**CUSTOMER**

(Signature) \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AT&T GLOBAL SERVICES on behalf of  
AT&T INTERNET SERVICES**

(Signature) \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CONFIDENTIAL INFORMATION**

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MSOT Id: 72184-97047  
ECATS No.: null

Addendum\_AT&TIS\_PremierServ\_DIA\_4.3

Updated 08/15/06

**Approved as to form**

**City Attorney**

# AT&T PremierSERV<sup>SM</sup> DEDICATED INTERNET ACCESS SERVICE

## TERMS AND CONDITIONS

*for Addendum agreements*

### 1. DEFINITIONS

- A) "COE" shall mean Customer owned or provided equipment.
- B) "Federal Universal Service Pass-Through Fee ("FUSPF")" shall mean a pass-through of the Federal Universal Service Fees ("FUSF") associated with the telecommunications services underlying the Service, based on current FUSF rates. The FUSPF may be modified from time to time to reflect changes in the FUSF.
- C) "AT&T" shall mean either SBC Internet Services, Inc. dba AT&T Internet Services or SBC Long Distance, LLC, as identified and set forth on the first page of this Agreement.
- D) "Service" shall mean the service(s) as identified and set forth on the first page of this Addendum. AT&T reserves the right at any time during the Term of this Addendum to modify the Service and/or to migrate Customer to AT&T's Managed Internet Service or other comparable service AT&T may have at that time ("AT&T MIS").
- E) "Service Activation Date" or "Cutover Date" shall mean the date Customer has connectivity over the transport network to AT&T's Internet Access Network. In the case of connectivity via ISDN, Frame Relay or ATM, connectivity shall have occurred when a physical connection has been installed and a permanent virtual circuit (PVC) has been established to permit routing of traffic from Customer's equipment to AT&T's Internet access network. The Service Activation Date shall not be dependent on correct configuration of Customer's computer equipment, applications (e.g., Domain Name Service, Electronic Mail Service), Local Area Network ("LAN") or Wide Area Network ("WAN").

### 2. TERM

- A) The Term of this Addendum and the Service provided hereunder will commence on the Service Activation Date and will continue for the Term specified on the first page of this Addendum. The Term of the Service shall automatically renew on a month-to-month basis on the terms and conditions set forth herein, unless either party delivers to the other party thirty (30) days advance written notice of termination. Upon renewal under this provision, the price to Customer will be as stated in AT&T's standard price list in effect at the time of renewal for month-to-month Service.
- B) If during the Term of this Addendum, AT&T chooses to migrate the Customer to AT&T MIS, AT&T will provide the Customer with a prior written (via e-mail) notice to that effect. The terms and conditions specified in this Agreement shall continue unchanged.

### 3. TERMINATION

- A) Prior to the date upon which AT&T installs transport to provide Service, (i) Customer may cancel this Addendum by providing ten (10) days prior written notice on Customer's company letterhead to AT&T and (ii) AT&T may cancel this Addendum based on Customer's non-responsiveness or non-readiness to have AT&T provision/fulfill the requested Service within ninety (90) days after Customer orders the Service. In either event, Customer shall pay AT&T as liquidated damages, not as a penalty, a cancellation charge equal to two (2) months of the Service charges.
- B) After the date upon which AT&T installs transport to provide Service, in the event Customer terminates this Addendum without cause or AT&T terminates this Addendum based on Customer's non-responsiveness or non-readiness as set forth above, Customer will be liable to AT&T as liquidated damages, not as a penalty, for any installation charges waived or unpaid, any other unpaid charges due and owing, plus fifty percent (50%) of the Monthly Charges for the remaining Term of the Service from the date of termination.

### 4. BILLING AND PAYMENT

- A) Taxes and then current FUSPF associated with Customer's use of the Services will be added, if applicable, to monthly charges specified herein.
- B) For all charges, including installation charges and taxes, if applicable, AT&T will bill Customer through Customer's monthly bill from the AT&T Affiliate providing Customer's local telephone service. For circumstances where Customer is outside AT&T local telephone service territory or where deemed necessary, at AT&T's sole discretion, Customer may receive an invoice directly from AT&T for all charges. Monthly recurring charges will be billed in advance and usage charges will be billed in arrears. Partial months of Service will be prorated. Payments will be applied first to the oldest charges on the bill, without regard to any notation Customer may make on its check. Monthly Charges shall commence on the date that AT&T makes Internet connectivity available to Customer. If Customer delays Internet connectivity for more than ten (10) business days after the date that the transport is installed, AT&T will begin billing Customer for the Service on the eleventh (11th) business day following the installation of the transport.

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## AT&T PremierSERV<sup>SM</sup> DEDICATED INTERNET ACCESS SERVICE

### TERMS AND CONDITIONS for Addendum agreements

#### 5. DOMAIN NAME REGISTRATION

- A) Customer is responsible for choosing a domain name and submitting an application to AT&T. AT&T makes no warranty or representation that the requested domain name will be available for registration. Customer will retain ownership of the registered domain name(s).

#### 6. CUSTOMER OWNED EQUIPMENT

- A) Unless specified in this Addendum, Customer is solely responsible for provisioning, installing, configuration and maintenance of all COE hardware and software, including without limitation TCP/IP routers, CSU/DSU line interface units, primary domain name servers, electronic mail servers, netnews servers and firewall or proxy servers. AT&T shall not be responsible for delays in the provision of Service resulting from incompatibility of such COE, or resulting from improper provisioning, configuration or maintenance of such COE. AT&T may provide configuration files for certain routers, at its sole discretion, and only as a convenience to Customer. The connection of COE and wire will at all times comply with the terms, conditions, limitations and responsibilities normally applicable to the connection of customer premise equipment to the telephone network, including those now or hereafter established in the Federal Communication Commission's Part 68 Rules and Regulations.
- B) AT&T may make changes in its Services, equipment, operations or procedures, including those related to the Service, where such action is not inconsistent with the proper operation of the Service provided under this Addendum. If any such change can be reasonably expected to render any of Customer's COE incompatible or otherwise materially affect its use or performance, Customer will be provided written notice at least three (3) months in advance of the change. If Customer determines that the cost of replacing or modifying its equipment or system in order to reestablish compatibility and maintain uninterrupted Service is unreasonable, Customer may terminate this Addendum without penalty or liquidated damages (e.g., cancellation or termination charges).
- C) Customer will provide the proper environment, electrical and telecommunication connections for the Services and router, if applicable, as specified by AT&T and/or the Router manufacturer. No combination of COE will: require change in or alteration of the equipment or Service of AT&T; cause electrical hazards to AT&T's personnel or damage to AT&T's equipment; cause the malfunction of AT&T's billing equipment; or cause degradation of Service to persons other than the user of the subject terminal equipment or communications system. Upon notice from AT&T that Customer's COE is causing such hazard, damage, malfunction or degradation of Service, Customer will promptly make such changes as will be necessary to remove such hazard, damage, malfunction or degradation of Service.

#### 7. AT&T RESPONSIBILITIES

- A) Router installation and maintenance. If specified on the first page of this Agreement, AT&T will:
- 1) Provide, install and maintain a fully configured, staged, and tested router, configured with the IP software suite and LAN interface (the "Router"). Title to the Router shall pass to Customer upon AT&T's completion of the installation of the Router. AT&T will terminate the Service in the Router's LAN interface, which will be the Service point of demarcation. Customer is responsible for interfacing its equipment/LAN with the Router. If Customer requests and agrees to pay time and material charges, the Service interface may be extended to another Customer requested location. If Customer chooses to terminate its maintenance agreement with AT&T, Customer will become responsible for all router configurations and configuration requests, and request for support beyond basic access to the internet, will be performed by DataComm Customer Care solely on a Time and Materials ("T&M") basis.
  - 2) Provide support for basic connectivity to the internet, as well as up to 10 extended IP access list lines, DHCP on a router, Port Address Translation (PAT), and static (public to private) NAT. These configuration requirements are to be provided by Customer prior to installation, and performed at provisioning, or on exception basis, during maintenance. All other configuration requests by Customers will be performed on a Times and Materials (T&M) basis.
- B) Provide project management of the Service and Router installation;
- C) Provide to Customer the Service circuit IDs and an 800 number for trouble reporting after the Service Activation date.
- D) Retain the Router password and will be solely authorized to make changes to the Router configuration;
- E) Maintain and repair the Router for the duration of the Service period in accordance with Section 12 hereof. If, however, Customer chooses to manage the Router password, then Customer will be responsible for the maintenance and repair of the Router. In that instance, AT&T will no longer have the responsibility to maintain and repair the Router as stated herein.
- F) Except with respect to Service provided over AT&T's Integrated Services Digital Network ("ISDN"), AT&T will monitor the Service 24 hours a day, 7 days a week for Service troubles and failure and will provide Customer with Service information and documentation for trouble reporting.
- G) AT&T will allocate the necessary number of IP addresses to Customer based on the mutually agreed upon design and provide specific LAN/WAN assignments for the Router. AT&T reserves the right to decrease,

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## AT&T PremierSERV<sup>SM</sup> DEDICATED INTERNET ACCESS SERVICE

### TERMS AND CONDITIONS for Addendum agreements

increase, modify or otherwise restrict the number of IP addresses assigned to Customer, but will not do so without prior discussion with Customer.

#### 8. CUSTOMER RESPONSIBILITIES

- A) Customer is responsible the following:
- 1) providing the path for the extension of the Service interface beyond the network interface demarcation;
  - 2) providing access to the network demarcation and Router during installation and for the Term;
  - 3) providing an on-site project manager/contact at mutually agreed upon times and for the duration of the installation interval who will designate the Service interface requirements, assist in the installation and configuration of the Router, and accept the Service;
  - 4) providing network security for its LAN and access to Customer's LAN. This may include numbering/renumbering Customer's LAN IP devices using the new address to permit access to the Internet;
  - 5) IP addressing of any hosts connected to the Router and IP sub-netting behind the Router. AT&T does not provide professional services regarding sub-netting beyond the LAN interface on the Router;
  - 6) providing a firewall or other device to protect its internal network if Customer has not elected to obtain security services from AT&T; and
  - 7) providing AT&T with access to all wiring closets, equipment rooms and/or demarcation locations during installation and maintenance procedures.

#### 9. SPECIAL CONSTRUCTION

- A) Special Construction will be required if (1) the facilities or equipment are not available to meet an order for Service and AT&T or its affiliates or vendors must construct facilities; (2) Customer requests Service to be furnished using a type of facility or equipment, or via a route, other than that which AT&T would ordinarily utilize in providing the requested Service; or (3) Customer requests construction be expedited and such expedited construction results in added cost to AT&T. Special construction charges will be developed based upon estimated costs and Customer must provide written approval and payment for all special construction costs before AT&T or its affiliates or vendors will begin any special construction. If Customer fails to provide written approval of and pay for special construction charges, Services ordered under this Addendum will be terminated by AT&T.

#### 10. SERVICE MOVES, CHANGES & UPGRADES

- A) The Site(s) to receive the Service which are specified on the first page of this Addendum may be moved or changed from one Site to another within the LATA, so long as the new Site can be served from an AT&T wire center, and the Service and associated charges will continue uninterrupted. Non-recurring charges and new recurring charges that would apply for the new location will be negotiated at the time of the move. If Customer elects to upgrade the Service to a higher speed, Customer may do so without liability for the early termination charges specified in this Addendum if Customer signs a new agreement with a term at least equal to the Term of this Addendum. Customer will be responsible for installation charges and the new monthly rate.

#### 11. TRANSPORT SERVICES

- A) Unless purchased with the Service, Customer must obtain local transport services ("Transport") from a transport provider for use with the Service and the terms and conditions applicable to those services are not in any way affected by the terms of this Addendum. Additionally, ANY LONG DISTANCE, MEASURED SERVICE OR TOLL CHARGES INCURRED BY CUSTOMER TO ACCESS THE SERVICE DURING CUSTOMER'S USE OF THE SERVICE SHALL BE CUSTOMER'S SOLE RESPONSIBILITY.

#### 12. MAINTENANCE AND TESTING

- A) The Parties will cooperate with each other in performing joint tests to the extent reasonably necessary to establish the Service or to detect, isolate and remedy Service related problems. Joint tests will be at no charge to the other Party, if such tests are conducted by remote testing systems. If an AT&T on-site technician is necessary and the trouble is located on Customer's side of the interface, actual material and labor prices at AT&T's standard rates will apply. AT&T will negotiate and coordinate the maintenance of transmission services with Customer's chosen local transport provider.
- B) AT&T will perform routine maintenance as is customary to reasonably maintain the Service, Transport, and Router, if applicable, as described herein. All such maintenance will be performed at no additional charge to Customer if the fault which gives rise to the maintenance request is determined by AT&T to reside on the AT&T

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## AT&T PremierSERV<sup>SM</sup> DEDICATED INTERNET ACCESS SERVICE

### TERMS AND CONDITIONS

*for Addendum agreements*

side of the point of demarcation between AT&T and Customer or in the Router. Actual material and labor prices at AT&T's standard rates will apply to troubles isolated to COE, to Customer's misuse of the Router, or to any condition on Customer's side of the point of demarcation between AT&T and Customer.

- C) Customer understands and agrees that temporary interruptions may occur as normal and reasonable events in the provision of the Service. All computer systems and networks need routine maintenance from time to time. AT&T generally schedules and performs such maintenance, on an as needed basis, during the times indicated on AT&T's website (located at <http://dedicated.sbcis.sbc.com/NDWS/>). Not all scheduled network/systems maintenance will affect Customer's Service. However, AT&T will endeavor to provide Customer five (5) business days advance notice, or if not possible, reasonable advance notice if AT&T believes that such routine scheduled maintenance will affect Customer's Service. In the event of a network/systems emergency requiring immediate attention, AT&T reserves the right to perform emergency maintenance without notice or upon short notice, and shall use all reasonable efforts to minimize the effect of such work on Customer's Service.
- D) Customer acknowledges and agrees that AT&T has no control over third party networks Customer may access in the use of the Service, and therefore, delays and disruption of other network transmissions are completely beyond the control of AT&T. AT&T will not be responsible for Customer's inability to access the Internet due to circumstances not in the direct control of AT&T, such as individual Internet user's own equipment capabilities and/or limitations, Internet limitations and/or browser software limitations.

### 13. **SERVICE LEVEL AGREEMENT** (Visit <http://dedicated.sbcis.sbc.com/NDWS/sla/> for SLA Details and Methodology)

A) *Network Service Levels:* AT&T agrees to meet the following network service levels:

- 1) *Network Availability:* AT&T's IP Backbone Network, from which it provides AT&T PremierSERV Dedicated Internet Access, will be available 99.99% of the time, based upon a monthly average between AT&T-selected MegaPOP and MiniPOP endpoints.
- 2) *Network Latency:* Average round-trip transmissions will be 40 milliseconds or less between AT&T-selected MegaPOP endpoints within AT&T's IP Network, measured by averaging samples taken during a calendar month between these endpoints.
- 3) *Network Packet Loss:* During any calendar month, packet loss will not exceed 0.1% based upon monthly averages, between AT&T-selected MegaPOP and MiniPOP endpoints within AT&T's IP network.
- 4) *Off-net Performance ("AT&T KB40"):* The monthly average full-page download time for the Keynote Business 40 websites, from within selected domestic AT&T MegaPOP locations, will not exceed 110% of the US25 Overall metric. The Keynote Business 40 (KB40) Internet Performance Index measures the average download time for the home pages of 40 significant US-based business Web Sites. These measurements are taken by automated agents attached to key points in the Internet backbone in the 25 largest metropolitan areas of the United States.
- 5) *Network Service Credits:* If AT&T fails to meet any of the above monthly aggregate network service levels in a calendar month, Customer shall be entitled to one (1) day's credit pro-rated from Customer's recurring monthly charges for the Service for each monthly aggregate service level failed ("Network Service Credit"). In order to receive this Network Service Credit, Customer must request a credit by visiting AT&T's SLA website at <http://dedicated.sbcis.sbc.com/NDWS/sla/credit.jsp>. All Network Service Credit requests must be received by AT&T by the last day of the month after the monthly aggregate infraction occurred. Failure to comply with this requirement will forfeit Customer's right to receive a Network Service Credit.
- 6) *Customer Service Level:* AT&T agrees to meet the following Internet availability service level:

- (a) *Internet Service Availability:* AT&T's Dedicated Internet Access Service will be available to Customer 99.95% of the time in a calendar month. "Service Unavailability" exists when Customer's Internet connection is unable to transmit and receive IP Packets to/from On-Net Hosts and AT&T records such failure in the AT&T trouble ticketing system ("Impaired DIA Service"). Service Unavailability is measured from the time AT&T has actual knowledge of a service outage and a trouble ticket is opened, either in response to notification by the Customer or in response to alarms from internal network management systems, to the time Customer's Impaired DIA Service is again able to transmit and receive IP Packets from AT&T On-Net Hosts.
- (b) *Internet Service Credits:* If AT&T fails to meet the above Internet service availability, then for each cumulative hour of Service Unavailability, exceeding the initial twenty (20) minutes of unavailability per month, Customer shall be entitled to one (1) day's credit pro-rated from Customer's recurring monthly charges for the DIA Port fees, not to exceed a total of fifteen (15) day's pro-rated recurring monthly service charges for the Service ("Internet Service Credit"). (E.g., Service Unavailability of greater than twenty (20) minutes but less than or equal to an hour shall entitle Customer to one (1) day's credit prorated; Service Unavailability of greater than one (1) hour but less than or equal to two (2) hours shall entitle Customer to (2) day's credit prorated; etc.). In order to receive an Internet Service Credit, Customer must timely contact AT&T's Dedicated Enhanced Service Center ("DESC") to open a trouble

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### TERMS AND CONDITIONS for Addendum agreements

ticket and also request an Internet Service Credit. If the DESC determines that the reported Service Unavailability was AT&T's responsibility, an Internet Service Credit shall be provided in accordance with this subsection. Failure to comply with this requirement will forfeit Customer's right to receive an Internet Service Credit.

- (c) This Service Level Agreement ("SLA") will not apply to infractions caused by (i) factors outside of AT&T's reasonable control, including force majeure events, (ii) scheduled network maintenance, (iii) actions or inactions of Customer or any third parties not under the sole control of AT&T, (iv) problems caused by COE, (v) problems isolated to the Local Access Transport and packet switching facilities connecting the AT&T POP to Customer's premise; or (vi) transmission errors across the portion of the Internet which is off-net to AT&T.
- 7) To provide a means of verifying performance of the service levels specified in this section of the Addendum, AT&T will use network health monitoring software to validate the data for any calendar month.
- 8) Customer acknowledges that the warranties contained herein measure AT&T's IP Backbone from selected endpoints and may not represent Customer's actual IP network experience.

#### 14. USE AND LIMITATIONS

- A) AT&T may: (i) reject or refuse to perform any Services that are not in compliance with its applicable specifications and standards, laws and regulations and/or public interest standards as determined by AT&T; and (ii) from time to time and without notice, make changes in Services that in its sole judgment will best serve AT&T's customers. AT&T's partial rejection or refusal of any portion of Services will not release Customer from its obligations with respect to the remaining Services being performed.
- B) Customer agrees to comply with the AT&T Acceptable Use Policy (AUP), all policies applicable to AT&T and all policies applicable to any network that is accessed through AT&T. Violation of any such rules, regulations and policies, or any attempt to break security or to access an account which does not belong to Customer, shall be considered a material breach of contract, and AT&T may terminate this Addendum without liability or may suspend or terminate Service to Customer, or suspend or terminate any user ID, electronic mail address, universal resource locator or domain name used by Customer. Upon such termination by AT&T, Customer shall be liable for any applicable charges, including early termination charges as set forth in Section 3 of this Addendum. If Customer's Service is suspended pursuant to this Section, Customer will remain responsible for charges for the Service incurred during the period of suspension. The AUP can be viewed at: [http://dedicated.sbcis.sbc.com/NDWS/sbc\\_policy/aup.jsp](http://dedicated.sbcis.sbc.com/NDWS/sbc_policy/aup.jsp).
- C) Nothing contained in this Addendum may be construed to convey to Customer any interest, title, or license in the user ID, electronic mail address or universal resource locator used by Customer in connection with the Service.
- D) Customer acknowledges and agrees that AT&T has the right to enforce its policies and guidelines pertaining to Customer's use of the Service and may be required to take immediate action to protect the integrity, quality, reputation and/or availability of the Service.

#### 15. WARRANTY

- A) AT&T warrants that for the Term of this Addendum, AT&T will make reasonable efforts to provide continuous, uninterrupted, expedient and error-free Service to Customer. If, under normal and proper use, the Services fail to perform substantially as specified above, and Customer notifies AT&T during such Term, AT&T will make commercially reasonable efforts to correct such Service degradations or failures without charge to Customer. AT&T's liability for damages for interruptions of Service, or for mistakes, omissions, delays, errors and defects in the provision of Services, shall in no event exceed an amount equal to the *pro rata* charges to Customer for the period during which the Services are affected.
- B) EXCEPT AS EXPRESSLY SET FORTH IN THIS ADDENDUM, AT&T HEREBY DISCLAIMS ANY AND ALL WARRANTIES INCLUDING IMPLIED WARRANTIES OF FITNESS, MERCHANTABILITY AND PERFORMANCE. AT&T MAKES NO WARRANTY THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, OR THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DOES AT&T MAKE ANY WARRANTY AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE SERVICE. AT&T MAKES NO WARRANTY REGARDING ANY TRANSACTIONS EXECUTED THROUGH THE SERVICE, AND CUSTOMER UNDERSTANDS AND AGREES THAT SUCH TRANSACTIONS ARE CONDUCTED ENTIRELY AT CUSTOMER'S OWN RISK.

END OF DOCUMENT

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A RESOLUTION OF THE LODI CITY COUNCIL  
AUTHORIZING THE CITY MANAGER TO APPROVE A  
THREE-YEAR CONTRACT WITH ATT FOR  
T3 INTERNET SERVICE

=====

WHEREAS, over the years, the City has become widely dependent upon the Internet for routine communications and day-to-day business activities. The Internet is the electronic backbone for email, file transfers, document sharing, City-sponsored file-transfer-protocol sites, research, and City Council Webcasts; and

WHEREAS, for the past ten years, the City has used a 1.5 megabit-per-second T1 Internet connection. A T1 line is a type of broadband telecommunications connection used especially to connect Internet service providers to the Internet's infrastructure. Most home Digital Subscriber Line connections are "faster" than the City's T1 line. The T1 lines carry about 1.5 megabits of data per second, while the related T3 lines carry over 40; and

WHEREAS, traffic over the City's network has steadily increased, creating greater strain on the current Internet connection. Adding to the strain is the size of files being transferred. In addition, the City currently hosts its public website, www.lodi.gov. All traffic into this site comes over the T1 line, further impacting the connection; and

WHEREAS, the City's current carrier, ATT, has reduced the price of its broadband T3 connections with bandwidths ranging from 5 to 100 megabits per second (Mbs). Staff is proposing upgrading the current T1 to a 10 Mbs T3 connection. This will result in an almost seven-fold increase in throughput. In addition to solving all of the current data contention issues, the upgrade would also prepare the City for future advancement of its technical infrastructure; and

WHEREAS, the annual cost of a T3 line is \$33,048. Offsetting this charge will be \$8,220 in annual savings related to cancellation of the T1 line with a net difference of \$24,828 annually.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby authorizes the City Manager to approve a three-year contract with ATT for T3 Internet service in the amount of \$33,048 per year from the following accounts:

|              |  |
|--------------|--|
| Police       | - 101031.7313 - (\$3,000)                              |
| Fire         | - 102011.7335 - (\$3,000)                              |
| Public Works | - 125053, \$1,000; 103011, 170401, 180451 (\$665 each) |
| EUD          | - 160603.7715 (\$3,000)                                |
| HSS          | - 108403.7202 (\$3,000)                                |
| Com Dev.     | - 340451.7313 (\$3,000)                                |
| Parks & Rec. | - 107011.7717 (\$3,000)                                |
| Finance      | - 100505.8099 (\$3,000)                                |

Dated: September 5, 2007

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I hereby certify that Resolution No. 2007-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 5, 2007, by the following vote:

AYES: COUNCIL MEMBERS –  
NOES: COUNCIL MEMBERS –  
ABSENT: COUNCIL MEMBERS –  
ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk